

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Terry Leroy Morgan,

Civil No. 08-491 (PJS/JJG)

Petitioner,

v.

Dwight Fondren,

Respondent.

**REPORT
AND
RECOMMENDATION**

JEANNE J. GRAHAM, United States Magistrate Judge

This matter comes before the undersigned on Terry Morgan's petition for a writ of habeas corpus under 28 U.S.C. § 2241 (Doc. No. 1) and respondent Dwight Fondren's motion to dismiss the petition as moot (Doc. No. 8). Petitioner Terry Morgan is proceeding on his own behalf. Respondent Dwight Fondren, named in his capacity as warden of the federal prison at Sandstone, is represented by Richard A. Newberry, Jr., Assistant U.S. Attorney. This matter is referred to this Court for a report and recommendation in accordance with 28 U.S.C. § 636 and Local Rule 72.1.

Mr. Morgan was imprisoned for a criminal offense. In his petition, filed on February 2, 2008, Mr. Morgan said that prison officials improperly denied him early placement at a halfway house. In his response on March 24, 2008, the Warden advised that Mr. Morgan was scheduled for release on August 2, 2008. Through a declaration filed on August 29, 2008, the Warden now advises that Mr. Morgan is no longer in custody. For this reason, Mr. Morgan cannot be placed in a halfway house, and thus there is no way to grant Mr. Morgan the relief he seeks.

If a petitioner for a writ of habeas corpus is released from custody, then there is no longer any available remedy and no relief can be granted. As a result, a court has no authority to decide the petition, which is appropriately denied as moot. *See Ali v. Cangemi*, 419 F.3d 722, 724 (8th Cir. 2005). Being duly advised of all the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED THAT:**

1. Mr. Morgan's petition for a writ of habeas corpus under 28 U.S.C. § 2241 (Doc. No. 1) be **DENIED AS MOOT**.
2. The Warden's motion to dismiss as moot (Doc. No. 8) be **GRANTED**.
3. This matter be dismissed in its entirety and judgment entered.

Dated this 5th day of September, 2008.

s/ Jeanne J. Graham

JEANNE J. GRAHAM

United States Magistrate Judge

NOTICE

Pursuant to Local Rule 72.2(b), any party may object to this report and recommendation by filing and serving specific, written objections by **September 29, 2008**. A party may respond to the objections within ten days after service thereof. Any objections or responses filed under this rule shall not exceed 3,500 words. The district court judge shall make a de novo determination of those portions to which objection is made. Failure to comply with this procedure shall forfeit review in the United States Court of Appeals for the Eighth Circuit.